

EXHIBIT 12

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

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CHASOM BROWN, MARIA NGUYEN,
WILLIAM BYATT, JEREMY DAVIS, and
CHRISTOPHER CASTILLO, individually
and on behalf of all other similarly
situated,

Plaintiffs, Case No.
5:20-cv-03664-LHK

-against-

GOOGLE LLC,

Defendant.

- - - - - x

CONFIDENTIAL

Zoom video conference deposition of
JESSE ADKINS, taken pursuant to notice,
was held remotely, commencing April 14,
2021, 11:00 a.m., before Leslie Fagin, a
Stenographic Court Reporter and Notary
Public in the State of New York.

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1		1	
2	REMOTE APPEARANCES:	2	APPEARANCES:
3		3	
4	BOIES SCHILLER & FLEXNER LLP Attorneys for Plaintiffs	4	ALSO PRESENT:
5	44 Montgomery Street, 41st Floor San Francisco, California 94104	5	MATTHEW GUBIOTTI, Google Regal
6	BY: MARC C. MAO, ESQUIRE BEKO RICHARDSON, ESQUIRE (Appearing via Zoom.)	6	KATHY RUCCOLO, Notary Public
7	-and-	7	DREW REIDMAN, Videographer
8		8	Magna Legal Services
9	BOIES SCHILLER & FLEXNER LLP 100 SE 2nd Street, 28th Floor Miami, Florida 33131	9	
10	BY: JAMES LEE, ESQUIRE ROSSANA BAEZA, ESQUIRE (Appearing via Zoom.)	10	
11		11	
12	SUSSMAN GODFREY, LLP Attorneys for Plaintiffs	12	
13	1301 Avenue of the Americas 32nd Floor New York, New York 10019-6023	13	
14	BY: ALEXANDER P. FRAWLEY, ESQUIRE (Appearing via Zoom.)	14	
15		15	
16	MORGAN & MORGAN Attorneys for Plaintiffs	16	
17	201 N. Franklin Street, 7th Floor Tampa, Florida 33602	17	
18	BY: RYAN J. McGEE, ESQUIRE (Appearing via Zoom.)	18	
19		19	
20	QUINN EMANUEL Attorneys for Defendant and the Witness	20	
21	865 S. Figueroa Street, 10th Floor Los Angeles, California 90017	21	
22	BY: STEPHEN BROOME, ESQUIRE JOSEPH ANSORGE, ESQUIRE (Appearing via Zoom.)	22	
23		23	
24		24	
25		25	

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1	J. Adkins - Confidential	1	J. Adkins - Confidential
2	THE VIDEOGRAPHER: Good morning.	2	myself and also Marc Mao, my partner, is
3	We are now on the record.	3	attending the deposition. I will let
4	Today's date April 14, 2021 and the	4	other counsel for the plaintiffs
5	time is now approximately 11:00 a.m.	5	introduce themselves.
6	This begins the videotaped deposition of	6	MS. BAEZA: This is Rossana Baeza
7	Jesse Adkins in the matter of Chasom	7	from Boies Schiller for the plaintiffs,
8	Brown, et al., verse Google, LLC.	8	as well.
9	Will the court reporter please	9	MR. FRAWLEY: Alexander Frawley
10	swear in the witness.	10	from Susman Godfrey for plaintiffs.
11	J E S S E A D K I N S, called as a	11	MR. McGEE: Ryan McGee from Morgan
12	witness, having been duly sworn by a	12	& Morgan, also for plaintiffs.
13	Notary Public, was examined and testified	13	MR. BROOME: Stephen Broome from
14	as follows:	14	Quinn Emanuel representing Google and
15	EXAMINATION BY	15	the witness.
16	MR. RICHARDSON:	16	Joining me are Matthew Gubiotti
17	Q. Good morning, Mr. Adkins. My name	17	from Google Regal and Joseph Ansorge
18	is Beko Richardson. I'm with Boies Schiller	18	from Quinn Emanuel.
19	& Flexner and I represent the plaintiffs.	19	Can I make a request that the
20	Good morning.	20	attorneys who are not asking questions,
21	A. Good morning.	21	stop their video so that we can -- the
22	MR. BROOME: Do you want to do	22	witness can stay focused on the
23	introductions on your side and then we	23	questioner and myself. Thanks.
24	will do our side.	24	And just a couple of other
25	MR. RICHARDSON: For plaintiffs,	25	housekeeping matters. Beko, as we

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 2 Website versus when they are not in a private
 3 browsing mode?
 4 A. Again, I'm not aware of the service
 5 or we would even identify that. Our services
 6 work the same, regardless of which browser.
 7 Generally, we make our web services work for
 8 web standards and it's up to the browser to
 9 also work towards those web standards and so
 10 as long as we are all following the same
 11 standards, the internet works, so we don't
 12 design our services specific to a specific
 13 web browser with specific features. I think
 14 our services work when they have the required
 15 information that's necessary for the
 16 operation of the service and if the
 17 information is not available, the service
 18 won't operate.

19 Q. And that's based on how the Google
 20 APIs are structured to function, right?

21 A. Yes, that is correct, that we do
 22 not -- again, you are talking about private
 23 browsing mode, which I interpret as different
 24 browsers have different configurations.

25 Again, as long as those browsers

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 2 are working in accordance with web standards,
 3 these things should operate, they should
 4 still continue to function, so that's my
 5 answer, to the extent that we build services
 6 that work with web browsers, any web browser
 7 that is interoperable with web standards.

8 Q. Does Google have any profiles that
 9 include any of the private browsing
 10 information Google collects when people visit
 11 the Court's Website?

12 MR. BROOME: Object to the form.

13 A. I don't know what you mean by
 14 profile.

15 Q. Does Google have any profiles on
 16 users?

17 MR. BROOME: Object to the form.

18 A. I don't know what you mean by
 19 profiles.

20 Q. In your work for Google, you've
 21 never used the term, profile?

22 A. I didn't say that. I said, I don't
 23 know what you mean by profile.

24 Q. In connection with your work for
 25 Google, have you used the term, profile?

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2 A. Yes, I have used the word, profile.

3 Q. In connection with users of Google
 4 services, have you used the term, profile?

5 A. Not that I can recall.

6 Q. How have you used the term,
 7 profile, in your work for Google?

8 A. I would say we have, like, a
 9 profile of a type of partner or profile of a
 10 certain configuration. I mean, it's a pretty
 11 common word, it's got a lot of purpose and a
 12 lot of different meanings.

13 We certainly don't profile users,
 14 we don't talk about profiling users, that's
 15 not the intent or how our services work, so I
 16 use the word, profile, but certainly not what
 17 I think you are saying about profiling users.

18 Q. So using your definition, is it
 19 your testimony that Google has no profiles
 20 that contain the private browsing information
 21 Google collects when people visit the Court's
 22 Website?

23 MR. BROOME: Object to the form.

24 He didn't provide a definition.

25 Q. You provided your understanding of

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2 profile in the context of your work for
 3 Google, correct?

4 A. No, I said I used the word and then
 5 I said I don't recall using the word,
 6 profiling users, in my work. I don't believe
 7 I gave you a definition.

8 Q. So you can't answer my question
 9 whether or not Google has any user profiles,
 10 period?

11 MR. BROOME: Sounds like you need
 12 to provide him an explanation of what
 13 you mean by profiles.

14 MR. RICHARDSON: Steve, can you let
 15 him testify. You can object, but I need
 16 the witness to testify, not you.

17 MR. BROOME: Objection, vague.

18 Q. Mr. Adkins, do you recall my
 19 question?

20 A. Yes, I do.

21 Q. Can you answer my question?

22 A. Yes, I cannot answer your question
 23 because I do not know what you mean by
 24 profile.

25 MR. BROOME: It's getting kind of

<p>1 J. Adkins - Confidential</p> <p>2 youtube.com or google.com, were there any</p> <p>3 actions taken that were accounted for in</p> <p>4 terms of delivering advertisements on the</p> <p>5 Court's Website?</p> <p>6 A. No, not that I am aware of.</p> <p>7 MR. BROOME: Object to the form.</p> <p>8 Q. What about when people visited the</p> <p>9 Court's Website in a private browsing mode,</p> <p>10 not logged into a Google account? Were the</p> <p>11 advertisements shown to them on the Court's</p> <p>12 Website ever modified based on prior actions</p> <p>13 by those users?</p> <p>14 A. In the case when the user visits</p> <p>15 the Court's website in Chrome Incognito Mode,</p> <p>16 there is no prior information on that browser</p> <p>17 that is collected and sent and, therefore,</p> <p>18 the search term is the primary, in this case,</p> <p>19 only piece of data used for targeting the</p> <p>20 ads, and there is no refinements made based</p> <p>21 on prior user activity because there is no</p> <p>22 link between that. Those cookies don't exist</p> <p>23 or they can't -- let me use better phrasing.</p> <p>24 Those cookies are not sent to the</p> <p>25 Google service in the Chrome Incognito Mode.</p>	<p>1 J. Adkins - Confidential</p> <p>2 Q. Just to be clear, separate and</p> <p>3 apart from any cookies, it's your testimony</p> <p>4 that when a person visited the Court's</p> <p>5 Website, not logged into a Google account and</p> <p>6 in an Incognito Mode, the advertisements</p> <p>7 would not be modified or adjusted in any way</p> <p>8 based on any prior actions taken by that</p> <p>9 person?</p> <p>10 A. A clarification, are you implying</p> <p>11 that we used other methods, other than the</p> <p>12 Google logged in cookie to identify or, to</p> <p>13 use your words, fingerprint the user?</p> <p>14 Q. I'm not implying anything. I'm</p> <p>15 just asking a question. I'm trying to</p> <p>16 clarify your answer, when you said that</p> <p>17 Google only uses the search run on the</p> <p>18 Court's Website to deliver advertisements to</p> <p>19 a person whose in Incognito Mode and not</p> <p>20 logged into a Google account, you</p> <p>21 specifically referred to cookies, and I just</p> <p>22 want to be clear that the advertisements</p> <p>23 delivered to those individuals, when they ran</p> <p>24 a search on the Court's Website, was not</p> <p>25 modified or adjusted in any way based on any</p>
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<p style="text-align: right;">Page 190</p> <p>1 J. Adkins - Confidential 2 again, in accordance with our privacy policy, 3 we would never, again, an anonymous user, 4 their prior searches on google.com, in the 5 same session, same tab Incognito Mode would 6 not alter the tabs on the Court's Website. 7 There is no interaction between those two 8 requests for ads.</p> <p>9 Q. With respect to advertisements 10 served by Google on websites, other than the 11 Court's Website, have those ever been 12 modified or adjusted in any way based on the 13 information Google collects when people visit 14 the Court's Website without being logged into 15 and in Incognito Mode?</p> <p>16 Does my question make sense?</p> <p>17 A. No, it was long and I missed --</p> <p>18 Q. I can break it up.</p> <p>19 A. If I can take notes by the end, I 20 forget what the beginning was, if you can go 21 slower.</p> <p>22 Q. My prior questions were focused on 23 what Google used to deliver ads on the 24 Court's website during the prior 25 configuration.</p>	<p style="text-align: right;">Page 191</p> <p>1 J. Adkins - Confidential 2 You understand that? 3 A. Yes. 4 Q. My questions now are how Google 5 delivers ads on other websites after someone 6 visits the Court's Website. 7 Do you understand that? 8 A. Yes. 9 Q. So my question is whether or not 10 Google has served ads on other websites that 11 are influenced or modified in any way based 12 on the information Google collected when 13 people visited the Court's Website, logged 14 out, and in Incognito Mode? 15 MR. BROOME: Object to the form. 16 A. So in the current configuration of 17 the Court's Website with programmable search 18 engine, there is no request for ads. Those 19 searches are only stored with the search 20 service and, therefore, there is no 21 interaction with ads. 22 The user has not accepted any type 23 of privacy policy or anything like that, so, 24 no, their searches on other websites are not 25 altered or modified. The ads delivered to</p>
<p style="text-align: right;">Page 192</p> <p>1 J. Adkins - Confidential 2 them on other websites are in no way modified 3 by the searches they performed on the Court's 4 Website.</p> <p>5 Q. Your answer just focused on the 6 current configuration.</p> <p>7 What about the prior configuration 8 for the Court's Website?</p> <p>9 A. I'm sorry, you asked about the 10 current configuration. You are asking a new 11 question now?</p> <p>12 Q. Same question, prior Court's 13 configuration?</p> <p>14 A. Let me repeat it back to make sure 15 I have the correct one. In the prior 16 configuration with the ads, you are asking 17 me, could the searches on the Court's Website 18 affect ads delivered on other websites?</p> <p>19 Q. Yes.</p> <p>20 A. And nothing to do with Chrome or 21 Incognito Mode?</p> <p>22 Q. Let's start with that question and 23 then we will go to the next part.</p> <p>24 A. My answer is, if the user was 25 logged in to Google services and we were able</p>	<p style="text-align: right;">Page 193</p> <p>1 J. Adkins - Confidential 2 to read the cookie that identifies the 3 logged-in user, if the user has 4 personalization turned on, then the prior 5 configuration of the Court's Website which 6 requested ads, those searches can be used for 7 ads purposes later and so the user, again, 8 could go to myactivity.google.com and see 9 those searches that are associated with the 10 ads they requested, delete them or turn off 11 ads personalization if they wanted, but, yes, 12 those searches that also requested ads could 13 be used to modify the delivery of ads on 14 other third party websites.</p> <p>15 Q. What about when a user was in a 16 private browsing mode, such as Incognito, 17 could those searches on the Court's Website 18 be used to modify the delivery of ads on 19 other websites?</p> <p>20 A. As long as the user did not log 21 into a Google service on that same Incognito 22 tab, the user was logged out, those searches 23 and just the searches cannot be used to 24 modify or be used in concert with ads. 25 I'm going to reference back my</p>

<p>1 2 --- 3 E X H I B I T 4 --- 5 EXHIBIT PAGE 6 Exhibit 6 Programmable search engine 272 7 terms of service 8 Exhibit 7 Google's privacy policy 280 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 322</p> <p>1 2 --- 3 DEPOSITION SUPPORT INDEX 4 --- 5 Direction to Witness Not to Answer Page Line Page Line Page Line 6 None 7 --- 8 Request for Production of Documents Page Line Page Line Page Line None 9 10 --- 11 Stipulations Page Line Page Line Page Line None 12 --- 13 Questions Marked Page Line Page Line Page Line None 14 --- 15 To Be Filled In Page Line Page Line Page Line None 16 --- 17 18 19 20 21 22 23 24 25</p>
<p>1 2 3 CERTIFICATE 4 5 I HEREBY CERTIFY that the witness, JESSE ADKINS, was duly sworn by me and that the deposition is a true record of the testimony given by the witness. 6 7 _____ Leslie Fagin, Registered Professional Reporter Dated: April 14, 2021 8 9 10 11 12 (The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.) 13 14 15 16 17 18 19 20 21 22 23 24 25</p>	<p>Page 324</p> <p>1 2 3 ACKNOWLEDGMENT OF DEPONENT I, , do hereby certify that I have read the foregoing pages, and that the same is a correct transcription of the answers given by me to the questions therein propounded, except for the corrections or changes in form or substance, if any, noted in the attached Errata Sheet. 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p>Page 325</p> <p>JESSE ADKINS DATE Subscribed and sworn to before me this day of , 2021. My commission expires: Notary Public</p>